

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF FIRE SERVICES

FIREWORKS SAFETY GENERAL RULES

Filed with the secretary of state on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of licensing and regulatory affairs by sections 20(1) and 20(2) of 2011 PA 256, MCL 28.470(1) and 28.470(2))

R 29.2904 of the Michigan Administrative Code is rescinded; R 29.2905, R 29.2906, R 29.2907, R 29.2909, R 29.2913, R 29.2914, R 29.2915, and R 29.2920 of the Code are amended; and, R 29.2927, R 29.2928, and R 29.2929 are added to the Code as follows:

PART 1. GENERAL PROVISIONS

R 29.2904 Affidavit of compliance. **Rescinded.**

~~—Rule 4. An affidavit of compliance under section 18(b) of the act shall be submitted by any applicant applying for a consumer fireworks certificate. The affidavit shall state that the individual applicant requesting the certificate has not been convicted of a felony involving theft, fraud, or arson or any felony conviction within the preceding 5 years.~~

R 29.2905 Collection of fees.

Rule 5. The bureau shall create procedures for the collection of applications and fireworks safety fees in accordance with the act, the Michigan department of treasury rules and procedures, and department of licensing and regulatory affairs tax and finance procedures, **including and shall include all of** the following:

(a) Pursuant to sections 8 and 9 of the act, **MCL 28.458 and 28.459**, a person who sells consumer fireworks **or** low-impact fireworks, or both, at retail locations shall collect the 6% fireworks safety fee when the gross retail income is \$1.04 or more as determined before any taxes are applied. This fee shall be in addition to the 6% Michigan state sales tax. A person who fails to collect and remit the fireworks safety fee ~~shall be~~ **is** guilty of a misdemeanor punishable by a fine of not more than \$10,000. A person who is found guilty under section 18c of the act, **MCL 28.468c**, shall not be eligible to obtain a consumer fireworks certificate for the specified time period.

(b) Pursuant to section 10 of the act, **MCL 28.460**, the remittance of the fireworks safety fee shall be filed with the department on forms prescribed by the department ~~within 15 business days after the end of each calendar quarter (March 31, June 30, September 30, and December 31 of each year)~~ **not later than 20 calendar days after the end of each preceding month.** The forms and submission schedule are published in electronic format at

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<http://www.michigan.gov/bfs>. A person shall file the fireworks safety fees and the required forms by either of the following methods:

- (i) Electronically submitting them to the bureau at <http://www.michigan.gov/bfs>.
- ~~(e)~~ (ii) Sending them to the bureau by United States mail. Fireworks safety fees and requisite filing forms shall be postmarked by the filing date and mailed to: Department of Licensing and Regulatory Affairs, Bureau of Fire Services, P.O. Box 30642, 7150 Harris Drive, Lansing, MI 48909. Checks or money orders shall be payable to the state of Michigan.
- (c) A person who possesses a consumer fireworks certificate but does not record any sales of consumer fireworks, shall file forms prescribed by the bureau and indicate that no sales were transacted in the previous month. The required forms shall be filed with the bureau either electronically or by United States mail, using the same addresses provided in subdivision (b)(i) and (ii) of this rule, not later than 20 calendar days after the end of each preceding month.

R 29.2906 Transfer of certificate.

Rule 6. ~~(1)~~ A consumer fireworks certificate ~~shall be~~ is transferrable to another entity in accordance with section 4(6) of the act, **MCL 28.454(6)**.

(a) A new applicant shall submit an application and other required information, other than plans, with a \$25 transfer fee.

(b) The consumer fireworks certificate may ~~only~~ be transferred to a new entity that is in the same physical location and that has had no modification made to the facility since the last required inspection.

(c) The consumer fireworks certificate for a temporary facility may be transferred to a new location upon the submission to the bureau of an application for location transfer that meets all of the following:

- (i) The bureau received the application not later than June 1 of the certificate year.
- (ii) No changes were made to the submitted plans other than site location.
- (iii) No previous inspection was conducted.
- (2) Not more than 1 entity or location transfer is permitted per certificate per year.

R 29.2907 Refunds.

Rule 7. ~~An applicant shall be eligible for a refund of 80% of the application fee if a written notice of cancellation for a certificate is received by the bureau prior to the completion of the site inspection. The notice shall be signed by the applicant and state that the applicant acknowledges that the certificate, if already issued, is void.~~ **Refunds of 70% of the certificate application fee are permitted only under either of the following conditions:**

(a) The refund request is for an accidental duplicate payment for the same cfrs location for which payment was already made.

(b) The refund request is due to the death of an applicant and the certificate has not been issued.

PART 2. FIRE SAFETY REQUIREMENTS

R 29.2909 Code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles; adoption by reference.

Rule 9. Except as amended by part 2 of these rules, the provisions of Chapters 1 to 3 and 7, nfpa (national fire protection association) 1124, entitled “code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles,” 2006 edition, are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution either at the office of the Bureau of Fire Services, Michigan Department of Licensing and Regulatory Affairs, P.O. Box 30700, ~~525 W. Allegan, 4th Floor, Lansing, Michigan 48909~~ **3101 Technology Boulevard, Suite H, Lansing, Michigan 48910**, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555. The cost as of the time of adoption of these rules is ~~\$43.00~~ **46.50** per copy.

R 29.2913 Retail sales of consumer fireworks.

Rule 13. Sections 7.2.1, 7.3.2, 7.3.3-3, 7.3.6, 7.3.13, 7.3.16, 7.3.18.1, 7.3.23, 7.4.9.1.1, 7.4.9.2.4, 7.5.1.1, 7.6.2.2 of chapter 7 of the code are amended, section 7.3.13.1 is added, and sections 7.3.18.2 and 7.4.9.2.1 of the code are deleted to read as follows:

7.2.1 Retail sales of consumer fireworks, including their related storage and display for sale of such fireworks, shall be in accordance with this code and the act.

7.3.2 Consumer fireworks certificate. A consumer fireworks certificate shall be obtained in accordance with the act and these rules.

7.3.3 Plans.

(1) Plans shall be submitted at the time of application to the bureau no later than April 1 of the application year. All of the following apply to plans:

(a) Exempt amounts: Plans are not required for applications of temporary or permanent facilities under either of the following conditions:

(i) Where the consumer fireworks are in packages and where the total quantity of consumer fireworks on hand does not exceed 125 pounds (net) (56.8 kg) of pyrotechnic composition.

(ii) Where the consumer fireworks are in a building protected throughout with an approved automatic sprinkler system installed pursuant to nfpa 13, standard for the installation of sprinkler systems, and do not exceed 250 pounds (net) (113.6 kg) of pyrotechnic composition.

(b) For temporary or permanent facilities under subrule (1)(a)(i) or (ii) of this rule, a product inventory, including package weights, shall be available upon request by the bureau or delegated representative of the bureau for verification during inspection.

(c) Plans are not required for renewal applications of permanent facilities unless changes to the site, facility structure, or floor plan have occurred since the previous year application.

(d) Temporary non-exempt amount facilities shall submit a site plan and shall have a floor plan available for inspection at the facility site that shows the location of tables, displays, and exits. New permanent non-exempt amount facilities shall submit both a site plan and a floor plan. Plans for permanent and temporary temporary and permanent facilities shall be drawn in a professional manner on suitable material. Electronic media

plans shall be acceptable. Plans shall be of sufficient detail and clarity to show the **information specified in subrules (2), (3), and (4) of this rule, following as applicable:**

~~(1)-(2)~~ **Site plans for temporary facilities shall indicate all of the following, including minimum minimum distances from the following, as applicable:**

- (a) Public ways: **within 150 feet of a public way or an approved fire apparatus access.**
- (b) Buildings: **a minimum distance of 20 feet.**
- (c) Other cfrs facilities: **a minimum distance of 20 feet.**
- (d) Motor vehicle fuel-dispensing station dispensers: **a minimum distance of 50 feet.**
- (e) Retail propane-dispensing station dispensers: **a minimum distance of 50 feet.**
- (f) Flammable and combustible liquid above-ground tank storage: **a minimum distance of 50 feet.**

(g) Flammable gas and flammable liquefied gas bulk above-ground storage and dispensing areas: **a minimum distance of 300 feet.** ~~within 300 ft. (91.5 m) of the facility used for the retail sales of consumer fireworks.~~

~~(2)~~ **(h) Vehicle access and parking areas.**

(i) Storage of consumer fireworks: a minimum distance of 20 feet.

(3) Site plans for permanent facilities shall indicate all of the following, including minimum distances from the following, as applicable:

- (a) Public ways: **within 150 feet of a public way or an approved fire apparatus access.**
- (b) Other buildings: **minimum distances pursuant to 7.4.7.1.1 and 7.4.7.1.2 of the code.**
- (c) Motor vehicle fuel-dispensing station dispensers: **a minimum distance of 50 feet.**
- (d) Retail propane-dispensing station dispensers: **a minimum distance of 50 feet.**
- (e) Flammable and combustible liquid above-ground tank storage: **a minimum distance of 50 feet.**

(f) Flammable gas and flammable liquefied gas bulk above-ground storage and dispensing areas: **a minimum distance of 300 feet.**

(g) **Vehicle access and parking areas.**

(4) Floor plans for only permanent facilities shall indicate the following, as applicable:

~~(3)~~ **(a) Location and type of portable fire extinguishers.**

~~(4)~~ **(b) A dimensioned floor plan with room names that shows the and layout of storage and displays to indicate compliance with this chapter including aisles, proposed flame break locations and construction, and proposed shelving materials, and height of displays and shelving.**

~~(5)~~ **(c) Means of egress, including the location of exit doors, size of doors, exit signs, aisle widths, emergency lights, and travel distance to exits.**

~~(6)~~ **(d) Construction details for structures and fire-rated construction for required walls, including ceiling height and square footage of the building.**

~~(7)~~ **(e) The maximum expected quantity of pyrotechnic material on display and maximum expected quantity of pyrotechnic material stored on site.**

(5) A copy of the plans required by this rule shall be kept on site for review by the bureau or delegated representative of the bureau, and the copy shall be provided by the applicant to the local fire department at the time of application for use in pre-incident review and planning.

7.3.6 An automatic sprinkler system designed and installed in accordance with ordinary hazard group 2 for ceiling heights under 16 feet (4.9m) or in accordance with extra hazard

group 1 for ceiling heights 16 feet (4.9m) or above under nfpa 13, standard for the installation of sprinkler systems, shall be provided ~~within 1 year of the effective date of the act,~~ for the following permanent cfrs facilities and stores in which cfrs are conducted:

- (1) New buildings greater than 6000 sq. ft. (557.2 m²) in area.
- (2) Existing buildings greater than 7500 sq. ft. (694 m²) in area.

7.3.13 Fire safety and evacuation plan. For a cfrs facility or store, a fire safety and evacuation plan shall be prepared in writing, maintained current, and available for inspection upon request.

7.3.13.1 The fire safety and evacuation plan shall include, but not be limited to **all of** the following information:

- (1) The procedure for reporting a fire or other emergency.
- (2) The procedure for alerting occupants of a fire or other emergency.
- (3) Emergency egress floor plans indicating all exits, manual fire alarm boxes, portable extinguishers, and fire alarm panels and controls.

(4) A list of fire hazards associated with the normal products in the facility, including maintenance, general fire safety, and housekeeping practices.

(5) The procedure to ensure all employees receive initial and on-going training in their responsibilities under the fire safety and evacuation plan.

7.3.16 Electrical equipment. All electrical wiring shall be in accordance with the Michigan electrical code, R 408.30801 to R 408.30880.

7.3.18.1 Fuel for generators shall be permitted to be class I, class II or class III liquids and shall be limited to not more than 5 gallons (18.9L)

7.3.18.2 Deleted.

7.4.9.2.1 Deleted.

7.4.9.1.1 Temporary wiring installed in a temporary structure, including tents and canopies, shall comply with the Michigan electrical code, R 408.30801 to R 408.30 880.

7.4.9.2.4 Where the generator fuel storage is located not less than 50 ft (15.2m) from the cfrs facility, the quantity of such fuel shall not be limited by **section 7.3.18**.

7.5.1.1 For the purpose of this chapter, stores in which retail sales of consumer fireworks are conducted shall not be considered cfrs facilities as defined in **section 3.3.29.1** where both of the following conditions exist:

(1) The area of the retail sales floor occupied by the retail displays of consumer fireworks does not exceed 25 percent of the area of the retail sales floor in the building or 600 ft² (55.5 m²), whichever is less.

(2) The consumer fireworks are displayed and sold in a manner consistent with the act and comply with the applicable provisions of this code **and** federal and state law.

7.6.2.2 Fire safety and evacuation plan. For a temporary cfrs stand, a fire safety and evacuation plan in compliance with section 7.3.13.1 shall be prepared in writing, maintained current, and available for inspection upon request.

R 29.2914 Verification of compliance.

Rule 14. Consumer fireworks shall not be sold at a retail location until **plans required under R 29.2913 have been received and approved by the bureau and** the bureau verifies compliance with section 5 of the act, **MCL 28.455**; nfpa 1124; and, these rules. Verification may be accomplished by either of the following:

(a) A site inspection of the retail location by the bureau **or a delegated representative of the bureau**. The bureau shall be the authority having jurisdiction to enforce the applicable nfpa codes. ~~A person shall request an inspection for compliance in accordance with this rule by writing to the Bureau of Fire Services, Michigan Department of Licensing and Regulatory Affairs, P.O. Box 30700, 525 W. Allegan, 4th Floor, Lansing, MI 48909.~~

(b) ~~Submission of a notarized affidavit signed~~ **Attestation at the time of application** by the person filing the certificate application stating that the certified retail location will ~~be in compliance~~ **comply** with section 5 of the act, nfpa 1124, and these rules, and that plans have been submitted and approved ~~in accordance with~~ **pursuant to R 29.2913 of these rules**, prior to selling consumer fireworks. ~~The affidavit shall be submitted for each retail location simultaneously with the application for a consumer fireworks certificate.~~

PART 3. VIOLATIONS AND PENALTIES

R 29.2915 Violations.

Rule 15. If the bureau determines during the physical site inspection that violations exist, the person holding the certificate for the retail location shall be responsible for a civil ~~fin~~ **fine** pursuant to the act and **R 29.2916**. ~~rule 16 of these rules~~. The bureau may seize fireworks pursuant to section 14(2) of the act, **MCL 28.464(2)**, for failure to pay any fine within the time written on the violation notice.

R 29.2920 Appeal of violation citation or civil infraction penalty or fine.

Rule 20. ~~Any~~ **A** party wishing to appeal the violation citation, any penalty or fine assessed for such violation, or both, shall file within ~~28~~ **15** calendar days of issuance of the violation citation an appeal with the state fire marshal. An appeal of the violation citation does not automatically stay a party's obligation to take action necessary to remedy the violation. The appeal process shall consist of **all of** the following:

(a) The state fire marshal, or the state fire marshal's designee, shall conduct a review of the violation citation appeal and decide the matter based on the interested parties' written submissions and documents, bureau records, applicable rules, and the state fire marshal's technical expertise.

(b) The state fire marshal is not authorized to conduct a hearing.

(c) Within 28 calendar days of ~~issuance of the~~ **receipt of an appeal of a** violation citation, the state fire marshal, or the state fire marshal's designee, shall issue a review decision setting forth the material findings of fact, conclusions of law, and remedial orders, if any. The review decision of the state fire marshal, or the state fire marshal's designee, shall contain notice of the right of interested parties to file an appeal to the state fire safety board within 28 calendar days of issuance.

PART 4. LOCAL INSPECTION DELEGATION

R 29.2927 Delegation.

Rule 27. (1) **A local unit of government requesting local inspection delegation under section 11(5) of the act, MCL 28.461(5), shall comply with all of the following:**

- (a) State certified fire inspectors shall perform all delegated inspections.
- (b) Inspections shall be conducted within 3 business days of receipt of a request for inspection from a fireworks facility representative.
- (c) Inspections shall be documented on forms provided by the department. Both of the following apply to forms:
 - (i) Inspection forms shall be electronically generated and in a format prescribed by the department, and at a minimum, include all of the following information:
 - (A) Facility name.
 - (B) Facility address.
 - (C) Facility contact information.
 - (D) Facility certificate number.
 - (E) Facility type.
 - (F) Inspection type.
 - (G) Fire safety certification.
 - (H) Name of inspecting official and contact information.
 - (I) Description of the inspection activity.
 - (J) Violations cited during the inspection including code reference.
 - (K) Any other information necessary to ascertain the facility meets the requirements of the act and these rules.
 - (ii) Inspection forms, including samples of approved forms, can be found on the department's website at www.michigan.gov/bfs.
- (d) All completed inspection forms shall be submitted to the department for approval within 5 business days of completing the facility inspection and prior to distribution to the facility. All unapproved inspection forms shall be returned for correction and resubmitted to the department for approval within 5 business days of receipt by the delegated inspector.
- (e) A delegated inspector who conducts fireworks inspections shall attend all department-provided training sessions regarding inspections of permanent and temporary fireworks facilities.
- (2) Failure to comply with requirements under the act or these rules may result in the termination of the local inspection delegation authority.

R 29.2928 Delegation application.

Rule 28. A local unit of government shall apply for local inspection delegation of consumer fireworks sales facilities by November 1 of the preceding year. The application forms are available in electronic format at <http://www.michigan.gov/bfs>.

R 29.2929 Delegation payment.

Rule 29. A local unit of government shall be reimbursed for delegated inspection duties pursuant to section 11(5) of the act, MCL 28.461(5). Payment for delegated inspections shall be made to the local unit of government after the inspection forms are approved by the department.